

A Consultation on the NHSScotland ‘Once for Scotland’ Workforce Policies

February 2024

Contents

Background and responding to this consultation	4
1. Equality, Diversity and Inclusion Policy	9
1.1. Aim	9
1.2. Scope	9
1.3. Definitions	9
1.4. Roles and responsibilities	11
1.5. Procedure	12
1.6. Supporting documentation	16
1.7. Consultation questions.....	17
2. Gender-based Violence Policy	18
2.1. Aim	18
2.2. Scope	18
2.3. Definitions	18
2.4. Roles and responsibilities	19
2.5. Procedure	20
2.6. Supporting documentation	24
2.7. Consultation questions.....	25
3. Facilities Arrangements for Trade Unions and Professional Organisations Policy	26
3.1. Aim	26
3.2. Scope	26
3.3. Definitions	26
3.4. Roles and responsibilities	27
3.5. Procedure	29
3.6. Supporting documentation	32
3.7. Consultation questions.....	33
4. Personal Development Planning and Performance Review Policy	34
4.1. Aim	34
4.2. Scope	34
4.3. Definitions	34
4.4. Roles and responsibilities	35
4.5. Procedure	36
4.6. Supporting documentation	39

4.7.	Consultation questions.....	40
5.	Employment Checks Policy	41
5.1.	Aim	41
5.2.	Scope	41
5.3.	Definitions.....	41
5.4.	Roles and responsibilities	41
5.5.	Procedure	42
5.6.	Supporting documentation	49
5.7.	Consultation questions.....	50
6.	Fixed-Term Contract Policy.....	51
6.1.	Aim	51
6.2.	Scope	51
6.3.	Definitions.....	51
6.4.	Roles and responsibilities	52
6.5.	Procedure	52
6.6.	Supporting documentation	57
6.7.	Consultation questions.....	58
7.	Secondment Policy	59
7.1.	Aim	59
7.2.	Scope	59
7.3.	Definitions.....	59
7.4.	Roles and responsibilities	60
7.5.	Procedure	61
7.6.	Supporting documentation	65
7.7.	Consultation questions.....	66
8.	Redeployment Policy	67
8.1.	Aim	67
8.2.	Scope	67
8.3.	Definitions.....	67
8.4.	Roles and responsibilities	68
8.5.	Procedure	69
8.6.	Supporting documentation	74
8.7.	Consultation questions.....	75

Background and responding to this consultation

Vision

The 'Once for Scotland' Workforce Policies Programme is designed to review and transform existing workforce policies (previously known as Partnership Information Network (PIN) Policies) in line with our vision:

'Once for Scotland Workforce policies will promote NHSScotland as a modern, exemplar employer; showcasing our core values, and promoting consistent employment policy and practice that supports the implementation of the Staff Governance Standard and effective recruitment and retention.'

Principles

The Scottish Workforce and Staff Governance (SWAG) Committee agreed that the following principles would govern the development work and future model:

1. The overriding purpose of future policy review exercises will be to create single, standardised policies that will be used consistently and seamlessly across NHSScotland.
2. Policies will be presented in a refreshed and reinvigorated format on a digital platform in a more user friendly and meaningful way, with staff and managers at the centre, whilst still being accessible to all groups of staff in alternative formats.
3. Policies will be developed and reviewed more quickly and efficiently, with accountability for delivery shared between employers, staffside and professional organisations and the Scottish Government.
4. There will be collective responsibility for each PIN Policy in terms of providing governance and leadership around future policy development or review.
5. Existing national PIN policies set good practice standards that have been negotiated and agreed in partnership and the starting presumption should be that these standards will apply at the core of future Once for Scotland policies.
6. Where a national PIN policy has been recently reviewed and is legally compliant, the expectation is that there should be minimal changes in relation to policy standards and therefore the focus is adopting that version to the Once for Scotland policy style.
7. Policies should be developed with robust engagement and take account of good practice locally and within other employers.
8. A new model for PIN policy review will be developed that improves the timeframe and efficiency of PIN policy review.

9. Once policies are agreed, they will be implemented consistently and fully across NHSScotland.

10. In future policies will be more focused on key standards and information and implemented across NHSScotland. The implementation will be supported by processes and procedures that will be nationally or locally agreed as appropriate.

Refreshed Policies

This consultation paper includes the following policies:

- Equality, Diversity and Inclusion [a refresh of the [Equality, diversity and human rights: NHSScotland PIN policy](#), 2013)
- Gender-based Violence [a refresh of the [Gender-based violence: NHSScotland PIN policy](#), 2011)
- Facilities Arrangements for Trade Unions and Professional Organisations [a refresh of the [Facilities arrangements for trade unions and professional organisations: NHSScotland PIN policy](#), 2011)
- Personal Development Planning and Performance Review [a refresh of the [Personal development planning and review: NHSScotland PIN policy](#), 2011)
- Employment Checks [a refresh of the [Pre and post employment checks: NHSScotland PIN policy](#), 2014)
- Fixed-Term Contract [a refresh of the [Use of fixed-term contracts within NHSScotland PIN policy](#), 2012)
- Secondment [a refresh of the [Secondment: NHSScotland PIN policy](#), 2012)
- Redeployment [a refresh of the [Redeployment: NHSScotland PIN policy](#), 2014)

Engagement Model

The emphasis is on moving to more dynamic and interactive engagement within a quicker process and with more direct feedback. The one-month consultation period will run from 8 February to 8 March 2024 inclusive with necessary flexibility to ensure maximum feedback. The consultation follows the regional engagement events pre-policy (January 2020) and mid-policy development (March 2020). Delegates were invited to participate in a follow up survey in the summer of 2021. This allowed delegates to reflect on what had been said at the mid-policy development engagement events and provide an opportunity to add any new perspectives.

The approach, agreed by the Scottish Workforce and Staff Governance (SWAG) Committee, minimises the need for the traditional 2-3 month formal consultation process. The consultation reflects this new model of engagement, and recognises that the extant PIN policies have already been agreed in partnership.

What is included within the consultation?

The consultation focuses on the 8 refreshed policies. Each policy includes the following sections:

- Aim
- Scope (Who it applies to and What can be raised under the policy)
- Definitions
- Roles and responsibilities (specific to the policy and in addition to standard roles and responsibilities which underpin all NHSScotland workforce policies)
- Procedure

The policy references supporting documents, each with a descriptor on what this entails, for your consideration.

Please note: supporting documents are not part of the consultation. These will be drafted following the consultation when responses have been analysed and the policy is developed in a final draft.

Standard sections that apply to all policies, for example, Principles and Values, Employee Support, Roles and Responsibilities are available on the [NHSScotland Workforce Policies](#) website.

The questions set out in the consultation seek to understand if the refreshed policies reflect our vision for NHSScotland workforce policies, and to identify any gaps in the policies or proposed supporting documents. The consultation also includes an equalities section to gather views on the potential impacts of each policy on protected characteristics equalities groups.

Responding to this Consultation

We are inviting responses to this consultation by Friday 8 March 2024.

Please respond to this consultation using the Scottish Government's consultation hub. [Access and respond to this consultation online](#). You can save and return to your responses while the consultation is still open. Please ensure that consultation responses are submitted before the closing date of Friday 8 March 2024.

If you are unable to respond using our consultation hub, please complete and return the Respondent Information Form to:

'Once for Scotland' Workforce Policies Programme
Scottish Government
GR, Workforce Practice Unit, Health Workforce Directorate
St Andrew's House
Regent Road
Edinburgh EH1 3DG

Handling your response

If you respond using the consultation hub, you will be directed to the About You page before submitting your response. Please indicate how you wish your response to be handled and, in particular, whether you are content for your response to be published. If you ask for your response not to be published, we will regard it as confidential, and we will treat it accordingly.

All respondents should be aware that the Scottish Government is subject to the provisions of the Freedom of Information (Scotland) Act 2002 and would therefore have to consider any request made to it under the Act for information relating to responses made to this consultation exercise.

If you are unable to respond via the consultation hub, please complete and return the Respondent Information Form included in this document.

To find out how we handle your personal data, please see our [privacy policy](#).

Next steps in the process

Where respondents have given permission for their response to be made public, and after we have checked that they contain no potentially defamatory material, responses will be made available to the public on the [consultation hub](#). If you use the consultation hub to respond, you will receive a copy of your response via email.

Following the closing date, all responses will be analysed and considered along with any other available evidence to help us. Responses may be published where we have been given permission to do so.

Comments and complaints

If you have any comments about how this consultation exercise has been conducted, please send them to the contact address above or at ofs.workforcepolicies@gov.scot

Scottish Government consultation process

Consultation is an essential part of the policymaking process. It gives us the opportunity to consider your opinion and expertise on a proposed area of work.

You can find all our consultations online on the [consultation hub](#). Each consultation details the issues under consideration, as well as a way for you to give us your views, either online, by email or by post.

Responses will be analysed and used as part of the decision-making process, along with a range of other available information and evidence. This will enable us to finalise

the NHSScotland Workforce Policies for Scottish Workforce & Staff Governance (SWAG) Committee approval and Cabinet Secretary agreement.

While details of particular circumstances described in a response to a consultation exercise may usefully inform the policy process, consultation exercises cannot address individual concerns and comments, which should be directed to the relevant public body.

1. Equality, Diversity and Inclusion Policy

1.1. Aim

1.1.1. The Equality, Diversity and Inclusion Policy aims to:

- Provide a framework to support the principles of equality, diversity and inclusion in the workplace.
- Ensure an appropriate and supportive response to discrimination, harassment, and victimisation.
- Support the implementation of the [Public Sector Equality Duty](#). It requires public bodies to have due regard to the elimination of unlawful discrimination, the advancement of equality of opportunity, and fostering good relations between different groups.

1.2. Scope

1.2.1. This policy applies to all applicants for employment, employees, and workers, including bank, agency, and sessional workers. It also applies to volunteers, contractors, and those on placement, such as trainees, students, or work experience participants. References to employees apply to all unless otherwise stated.

1.2.2. This policy complies with the [Equality Act 2010](#) and meets the aims of the [Public Sector Equality Duty](#).

1.3. Definitions

1.3.1. **Disability** is a physical or mental impairment which has a substantial and long-term adverse effect on a person's ability to carry out normal day-to-day activities.

1.3.2. **Discrimination** can be direct or indirect:

- **Direct discrimination** means treating one person worse than another because of a protected characteristic. It can be by association or perception.
- **Indirect discrimination** happens when a practice, policy, or rule applies to everyone, but it has a worse effect on a group of people who share a protected characteristic.

1.3.3. **Diversity** is an acceptance that everyone is different and that those differences are to be recognised, respected, valued, promoted, and celebrated. They may include but are not limited to differences protected by equalities law.

1.3.4. **Equality** is making sure every individual has an equal opportunity to make the most of their lives and talents. It is also the belief that no one should

have poorer life choices because of where, what or whom they were born or because of other characteristics.

1.3.5. Harassment, under the Equality Act is unwanted conduct related to a relevant protected characteristic. It has the purpose or effect of violating an individual's dignity or creating an intimidating, hostile, degrading, humiliating, or offensive environment for that individual. Harassment, can also occur, when there is unwanted conduct relating to other personal characteristics such as weight, social status, or trans identities, including non-binary.

1.3.6. Inclusion is where everyone feels valued at work. It is about providing equal access to opportunities and resources for people who might otherwise be excluded or marginalised.

1.3.7. Positive action is permitted action by an employer, allowed under the Equality Act 2010. It covers a range of measures that lawfully encourage and support people from under-represented groups to meet their different needs and help them overcome disadvantages related to their protected characteristics.

1.3.8. Protected characteristics are personal traits defined within the Equality Act 2010. It is against the law to discriminate against someone because of a protected characteristic. The nine protected characteristics are:

- age
- disability
- gender reassignment
- marriage and civil partnership
- pregnancy and maternity
- race
- religion or belief
- sex
- sexual orientation

1.3.9. Further information on protected characteristics can be found at the [Equality and Human Rights Commission](#).

1.3.10. Reasonable adjustments are changes an employer makes to the working arrangements or environment to remove or reduce a substantial disadvantage related to someone's disability. Failure to implement reasonable adjustments will amount to disability discrimination.

1.3.11. Victimisation is treating someone less favourably because they have taken action, or might take action, such as making a complaint of discrimination or harassment. It can also refer to singling out, mistreating, or subjecting someone to unfair treatment based on their perceived or actual characteristics, opinions, or actions.

1.4. Roles and responsibilities

1.4.1. There is a range of standard expectations which underpin all policies. [Read more about standard roles and responsibilities](#). In addition, the following specific responsibilities apply to this policy.

1.4.2. Employer

1.4.3. The employer should:

- Identify a senior lead to champion, support, and embed equality, diversity and inclusion within the organisation.
- Demonstrate leadership via senior management to implement the policy effectively to create an inclusive workplace culture.
- Support the establishment of staff networks for protected groups.

1.4.4. Manager

1.4.5. The manager should:

- Identify and deal with concerns, making sure employees are treated fairly and consistently, with dignity and respect in an environment where equality, diversity and inclusion are valued and progressed.
- Encourage employees to provide their equality information to the organisation to assist in action planning to improve staff experience, policy and employment practice.
- Be accountable for promoting a culture of equality, diversity, and inclusion, addressing any issues promptly, objectively and fostering an inclusive work environment.
- Apply appropriate challenge where others do not comply with equality, diversity and inclusion principles and values.
- Undertake learning and development activities to make sure their knowledge and understanding of equality, diversity and inclusion is up to date.
- Consider specialist advice and recommendations concerning adjustments and make fair and reasonable decisions.

1.4.6. Employee

1.4.7. The employee should:

- Treat all others with dignity and respect and demonstrate behaviours to progress equality and inclusion, and value diversity.
- Provide equality information to the organisation to assist in action planning to improve staff experience, policy, and employment practice.
- Undertake learning and development activities to make sure their knowledge and understanding of equality, diversity and inclusion is up to date.

- Challenge, where able, or escalate where others do not comply with equality, diversity and inclusion principles and values.

1.4.8. Trade unions

1.4.9. Trade unions should:

- Work in partnership with employers and members to champion equality, diversity and inclusion.
- Support members with equality, diversity and inclusion issues and make sure they know their rights and responsibilities under this policy.
- Encourage employees to disclose personal equality information to improve staff experience, policy, and employment practice.

1.4.10. Human resources

1.4.11. Human resources should:

- Support the process of equality and diversity monitoring and analysis.
- Support managers and employees to recognise the equality, diversity and inclusion aspects of applying workforce policies.

1.4.12. Equality leads

1.4.13. Equality leads should:

- Provide specialist advice concerning equality, diversity, and inclusion.
- Support the integration of equality, diversity and inclusion into everyday working within the organisation.
- Participate in the process of monitoring, analysis, and action planning.

1.5. Procedure

1.5.1. NHSScotland is committed to creating an open, inclusive culture where all staff are at ease being themselves at work. It seeks to ensure that everyone feels valued, included, and respected, and opportunities for growth and success are accessible to all.

1.5.2. All individuals must be treated with fairness, respect, and dignity, inclusive of any protected characteristics.

1.5.3. The Equality Act 2010 protects employees from discrimination in the workplace. To make sure that no employee is discriminated against requires true equal treatment. This may not always mean treating everyone in the same way. The principle of equal treatment underpins the following:

- [NHSScotland values](#)
- [Staff Governance Standard](#)

1.5.4. Recruitment and selection

- 1.5.5.** This policy demonstrates a commitment to providing equal opportunities for employment, training, development, and advancement. It makes sure selection and promotion decisions are based on merit.
- 1.5.6.** All those involved at any stage in the recruitment and selection process should have undertaken appropriate training in recruitment and selection as well as equality, diversity, and inclusion.
- 1.5.7.** Job descriptions, person specifications, and advertisements will not be discriminatory. All applications will be considered solely on merit. Suitability for selection should be based directly on the person specification for the post.
- 1.5.8.** Employers should advertise vacancies on the NHSScotland jobs website, which facilitates the promotion of opportunities within identified equalities groups. This should encourage applications from underrepresented groups.
- 1.5.9.** Adverts and the application process should be accessible to eligible applicants. Where an occupational requirement exists that restricts applications to those with a particular protected characteristic, the hiring organisation will include a statement to that effect.
- 1.5.10.** The employer will make reasonable adjustments for disabled applicants during the application and selection process stages. Disabled applicants who meet the minimum criteria for the job and who indicate on their application form that they wish to participate in the Guaranteed Interview Scheme, will be shortlisted.
- 1.5.11.** Selection will be based primarily on the candidate's ability to perform the role, as set out in the job description and the person specification.
- 1.5.12.** NHSScotland Boards' recruitment processes must make sure employment decisions are based solely on the objective application of agreed scoring methods. Where there is equal scoring, recruiting managers are required to consider underrepresented groups. Positive action in recruitment is a proportionate way of reducing disadvantage to, or under-representation of, certain groups in the workforce.

1.5.13. During employment

- 1.5.14.** Equality, diversity and inclusion are at the centre of all NHSScotland Workforce Policies and practices. By embracing these principles, NHSScotland employers demonstrate that they:
- value the unique contributions of every individual
 - support innovation, collaboration, and success

1.5.15. The workplace must be safe for employees. This means it must be free from discrimination, victimisation, and harassment.

1.5.16. NHSScotland will not tolerate inappropriate or potentially unlawful behaviour related to a protected characteristic. The organisation will implement a consistent and committed approach to addressing such behaviours in line with the appropriate workforce policy.

1.5.17. Employers will make reasonable adjustments for disabled members of staff. Employees should be assured that confidential information about a disability will only be disclosed to others with their consent.

1.5.18. NHS Terms and Conditions relating to pay comply with the obligation to ensure equal pay for work of equal value.

1.5.19. When applying NHSScotland Workforce Policies, the Equality Act 2010 must be adhered to.

1.5.20. Raising concerns

1.5.21. NHSScotland will not tolerate any forms of discrimination, including direct and indirect discrimination, harassment, victimisation, and any other behaviour that undermines individuals' dignity.

1.5.22. Every employee in the NHS in Scotland shares the responsibility to do the following:

- uphold this policy
- treat others fairly
- increase their understanding of and respect for difference to promote respect, equality and trust
- address any instances of discrimination, harassment, or victimisation promptly and effectively

1.5.23. Employees are encouraged to raise any concerns relating to harassment using the NHSScotland [Bullying and Harassment Policy](#).

1.5.24. Employees are encouraged to raise any concerns relating to discrimination or victimisation using the NHSScotland [Grievance Policy](#).

1.5.25. Equality and diversity monitoring and reporting

1.5.26. The NHS has employer responsibilities to collect workforce information on protected characteristics to understand the composition and make-up of the workforce, and to report on it. The data gathered is used to better plan

the NHS workforce, implement employment policies, and improve staff experience.

1.5.27. Data should be collected from applicants during the recruitment process and reviewed and updated during their employment. This data is kept confidential and is protected by the Data Protection Act 1998. Employees should be assured that confidential information about protected characteristics, for example trans history, will only be disclosed where appropriate and with their consent.

1.5.28. There are statutory requirements for NHS employers to report on their performance on meeting the Public Sector Equality Duty. These include publishing Gender Pay Gap information, statements on Equal Pay and Employee Monitoring Information.

1.5.29. Information about employees with protected characteristics will be contained within these reports on an anonymised basis.

1.5.30. Related policies

1.5.31. The Equality, Diversity and Inclusion Policy underpins all NHSScotland workforce policies. In addition, the following policies are related to the Equality, Diversity and Inclusion Policy:

- [Bullying and Harassment Policy](#)
- [Grievance Policy](#)

1.6. Supporting documentation

It is proposed that the supporting documents listed below will be developed to support the policy. Supporting documents are not part of the consultation. These will be drafted following the consultation when responses have been analysed and the policy is developed in a final draft.

- **Employee guide**
Descriptor: guide to help employees use and understand the Equality, Diversity and Inclusion Policy. This will include further detail on what steps an employee may take to raise concerns about discrimination, harassment, victimisation, and any other behaviour that undermines individuals' dignity.
- **Manager guide**
Descriptor: guide to help managers use and understand the Equality, Diversity and Inclusion Policy. This will include further detail on ensuring an appropriate and supportive response to discrimination, harassment, and victimisation.
- **Equality, diversity and inclusion policy flowchart**
Descriptor: visual and text alternative flowcharts outlining the key steps in the Equality, Diversity and Inclusion Policy.
- **Guide on transitioning**
Descriptor: guide to help support employees who are transitioning.
- **Guide on reasonable adjustments**
Descriptor: guide to help support disabled employees.

1.7. Consultation questions

We are inviting responses to this consultation using the Scottish Government's consultation hub. The following questions are set.

In your response, all questions have the option to answer yes or no. You are invited to provide further comment in a free text box. If you wish to make specific reference to a section of the policy, please quote the relevant numbered line in this consultation document.

1. Do you feel there are any gaps in the policy?
2. Do you feel there are any gaps in the proposed list of supporting documents?
3. Do you have any other comments to make on the policy?
4. Do you have any views on the potential impacts of this policy on equalities groups?

It is against the law to discriminate against someone because of: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex or sexual orientation. These are protected characteristics under the Equality Act, 2010.

2. Gender-based Violence Policy

2.1. Aim

2.1.1. The Gender-based Violence Policy aims to:

- Provide a framework to assist and support employees with current or previous experience of gender-based violence (GBV).
- Ensure an appropriate response to any employee accused of GBV.

2.2. Scope

2.2.1. This policy applies to all employees. It also applies to bank, agency, sessional workers, volunteers, contractors, and those on placement, such as trainees, students, or individuals undertaking work experience.

2.2.2. Reference to employees apply to all these groups unless otherwise stated.

2.2.3. This policy complies with current legislation and meets the aims of the [Public Sector Equality Duty](#) of the [Equality Act 2010](#).

2.3. Definitions

2.3.1. **Disclosure** means revealing a past or ongoing experience of GBV to another person.

2.3.2. **Gender-based violence** (GBV) refers to harmful acts directed at an individual or a group of individuals based on their gender. It is rooted in gender inequality, the abuse of power and harmful norms. The term is primarily used to describe the fact that structural, gender-based power differentials place women and girls at risk of multiple forms of violence. Whilst women and girls suffer disproportionately from GBV, men and boys can also be targeted. The term is also sometimes used to describe targeted violence against LGBTQI+ populations when referencing violence related to norms of masculinity, femininity and gender norms.

2.3.3. Listed below are examples of GBV against women and girls, as identified by [UN Women](#). These may equally apply to men or boys or members of the LGBTQI+ population, as appropriate:

- Physical, sexual, psychological, emotional and financial abuse occurring in the family, within the general community and in institutions in both physical and digital spaces and places.
- Domestic abuse/coercive controlling behaviours, stalking, rape and incest
- Sexual harassment, bullying and intimidation.
- commercial sexual exploitation, including prostitution, lap dancing, stripping, pornography.
- Trafficking and exploitation including for domestic and sexual servitude

- Child sexual abuse, including familial sexual abuse, child sexual exploitation, domestic abuse and indecent images of children.
- So called 'honour-based' violence, including dowry-related violence, female genital mutilation, forced marriages, and 'honour' crimes.

2.4. Roles and responsibilities

2.4.1. There is a range of standard expectations which underpin all policies. [Read more about standard roles and responsibilities](#). In addition, the following specific responsibilities apply to this policy.

2.4.2. Employer

2.4.3. The employer should:

- Raise awareness of the policy.
- Create a physically and psychologically safe environment for employees to disclose experience of GBV.
- Promote empathy and understanding of the cause and consequence of GBV.

2.4.4. Manager

2.4.5. The manager should:

- Initiate discussion where there are concerns about abuse.
- Respond sensitively to the disclosure of experience of abuse.
- Help employees assess their level of risk, including appropriate workforce support.
- Provide information on how to report abuse if the employee wishes.
- Engage with perpetrators of abuse in a respectful way whilst assessing any actions required.
- Be aware of the potential for GBV and for this to be taken into consideration when an employee is subject to a workforce policy process.

2.4.6. Employee

2.4.7. The employee is encouraged to identify a trusted individual to share their experience of GBV to obtain support.

2.4.8. Gender-based violence lead

2.4.9. The gender-based violence lead, where available, can provide specialist advice on GBV concerns.

2.4.10. Occupational health services

2.4.11. Occupational health services should:

- Respond sensitively to the disclosure of experience of GBV.
- Be aware of the potential for GBV and for this to be taken into consideration when undertaking assessment and providing recommendations.

2.4.12. Human resources

2.4.13. Human resources should:

- Respond sensitively to the disclosure of experience of GBV.
- Be aware of the potential for GBV and for this to be taken into consideration when an employee is subject to a workforce policy process.

2.4.14. Trade unions

2.4.15. Trade unions should:

- Respond sensitively to the disclosure of experience of GBV.
- Be aware of the potential for GBV and for this to be taken into consideration when an employee is subject to a workforce policy process.

2.5. Procedure

2.5.1. GBV is a major public health, equality and human rights issue. It covers a spectrum of violence and abuse committed primarily against women by men as a result of recognised gender inequalities. Although women and girls are significantly more at risk of GBV, it is also experienced by men and boys. Abuse also occurs within same-sex relationships.

2.5.2. It is acknowledged that given the large number of employees within NHSScotland that some will be perpetrators of GBV. Committing acts of GBV is unacceptable and will not be tolerated. Many forms of GBV are criminal offences and may also breach corporate and professional codes of conduct.

2.5.3. Disclosure by employee experiencing GBV

2.5.4. An employee may disclose:

- by voluntarily speaking to their manager or colleagues
- during a supportive discussion

2.5.5. A disclosure may also be made by other parties:

- colleagues
- patients who may know the employee outside of the workplace
- trade union representative
- multi-agency public protection
- police

2.5.6. Supportive conversation with the employee

2.5.7. The aim of the conversation is to provide support and ensure safety if the employee has indicated that they wish to engage. The manager should:

- Check whether any necessary amendments to the work environment or further support, such as occupational health or national specialist organisations, would be helpful.
- Assess for any risk in the workplace.
- Take a note of relevant points considering the sensitive nature of issues disclosed.
- Agree the content and how the note should be stored and shared with the employee, if safe to do so. This should detail any agreed adjustments and period for review.

2.5.8. Employees may find it difficult to engage with the discussion. GBV is often considered a private and personal issue. It may make it difficult for employees to talk openly about how this affects them at work. The employee should be reassured about their confidentiality being maintained. However, they should also be advised of the limits of confidentiality depending on the nature of the disclosure and requirements under adult support and protection or child protection organisational procedures.

2.5.9. Changes to working environment or adjustments

2.5.10. Managers should:

- Consider what workplace support may assist. Further information is available in the Manager guide and Employee guide [insert hyperlink to Manager Guide and Employee Guide]. This could include consideration under other NHSScotland Workforce policies and manager guides, such as:
 - [Special Leave Policy](#)
 - Special Leave Policy [Guide for Managers](#)
 - [Flexible Work Pattern Policy](#)
 - Flexible Work Pattern Policy [Guide for Managers](#)
 - [Flexible Work Location Policy](#)
 - Flexible Work Location Policy [Guide for Managers](#)
- Implement safety measures, if required.
- Consider any safety implications that may arise for employees who work from home.

2.5.11. Keep in close contact

2.5.12. If an employee requires to be absent from work, mutually agree a safe and confidential method of communication.

2.5.13. Regularly review

2.5.14. Managers should have regular meetings with the employee to make sure that the agreed level of support and adjustments are meeting the employee's needs. They should also keep under review any workplace alterations that are in place.

2.5.15. Disclosure by a perpetrator of GBV

2.5.16. An employee may disclose:

- by voluntarily speaking to their manager
- during a supportive discussion

2.5.17. A disclosure may also be made by:

- colleagues
- patients who may know the employee outside of the workplace
- trade union representative
- multi-agency public protection
- police
- partners or ex-partners who are not NHS employees
- Disclosure Scotland

2.5.18. Supportive conversation with the employee

2.5.19. When responding to a direct disclosure from an employee or where it has been established that they have perpetrated abuse, it is important to adopt good practice. Engagement with perpetrators in a respectful way does not mean excusing the abuse. It is an area that requires sensitivity and an awareness of how this might affect the safety and wellbeing of those experiencing abuse. The response could affect the extent to which the perpetrator accepts responsibility for their behaviour and therefore the need to change.

2.5.20. When a disclosure of GBV is brought to the attention of the manager, this should be acted on as soon as possible. Managers should respond in the same way that they would address any other serious complaint against an employee. An investigation should be undertaken using the [Workforce Policies Investigation Process](#).

2.5.21. In addition, the manager should check whether any necessary amendments or measures, such as occupational health, are required. The manager should assess for any risk posed. The manager should take notes at the meeting and provide a copy to the employee. This should detail any agreed adjustments and period for review.

2.5.22. Procedure in cases involving other employees

2.5.23. There might be situations where there is a need for employees to be separated or contact limited. This could be to support the employee subject to GBV to feel secure in the workplace or because of an interdict or injunction. In such cases, the perpetrator or alleged perpetrator will be moved to an alternate placement unless:

- the employee subject to GBV requests a move
- there is a legitimate service need which dictates that they cannot be moved

2.5.24. Reporting concerns

2.5.25. If made aware of any potential risk from the perpetrator or there are child or adult protection issues, the manager should follow local public protection arrangements.

2.6. Supporting documentation

It is proposed that the supporting documents listed below will be developed to support the policy. Supporting documents are not part of the consultation. These will be drafted following the consultation when responses have been analysed and the policy is developed in a final draft.

- **Employee guide**
Descriptor: guide to help employees use and understand the Gender-based Violence Policy. This will include information to support the employee making a disclosure and the types of practical help that can be offered.
- **Manager guide**
Descriptor: guide to help managers use and understand the Gender-based Violence Policy. This will include information to support the manager when an employee is making a disclosure and the types of practical help that can be offered, including sources of support.
- **Gender-based violence policy flowchart**
Descriptor: visual and text alternative flowcharts outlining the key steps in the Gender-based Violence Policy.
- **Indicators of Gender-based Violence**
Descriptor: guide to identifying potential signs of GBV.
- **Guide on sexual harassment**
Descriptor: guide to support employees who experience sexual harassment.

2.7. Consultation questions

We are inviting responses to this consultation using the Scottish Government's consultation hub. The following questions are set.

In your response, all questions have the option to answer yes or no. You are invited to provide further comment in a free text box. If you wish to make specific reference to a section of the policy, please quote the relevant numbered line in this consultation document.

1. Do you feel there are any gaps in the policy?
2. Do you feel there are any gaps in the proposed list of supporting documents?
3. Do you have any other comments to make on the policy?
4. Do you have any views on the potential impacts of this policy on equalities groups?

It is against the law to discriminate against someone because of: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex or sexual orientation. These are protected characteristics under the Equality Act, 2010.

3. Facilities Arrangements for Trade Unions and Professional Organisations Policy

3.1. Aim

3.1.1. The Facilities Arrangements Policy aims to:

- Provide detail on how facilities arrangements support partnership and trade union working.
- Explain the difference between trade union duties, trade union activities and partnership working.
- Outline the legal framework that underpins the various activities that can be undertaken by recognised trade union and professional organisations and accredited representatives in NHSScotland.
- Detail the scoping and funding of facilities agreements.

3.2. Scope

3.2.1. This policy applies to all accredited representatives of recognised Trade Union and Professional Organisations.

3.2.2. This policy complies with current legislation and meets the aims of the [Public Sector Equality Duty](#) of the [Equality Act 2010](#).

3.3. Definitions

3.3.1. **Area Partnership Forum** is the organisation-wide body which supports joint working between the trade unions and professional organisations and the employer. It has information-sharing, consultation, negotiation and oversight functions to ensure partnership working is embedded within the Board.

3.3.2. **Employee Director** is the elected chair of the staff side organisations within an NHS Board. In addition to being a representative of their own trade union or professional body, they are also an appointed non-executive director of the NHS Board.

3.3.3. **Facility time** is time off from an employee's job granted by the employer to carry out their trade union or professional organisation role.

3.3.4. **Health and safety representatives** advise and support members on health and safety generally including raising concerns about potential hazards and dangers.

3.3.5. **Learning representatives** are influential in supporting, developing, and improving the learning culture within the workplace. They raise awareness

about the value of learning, help organise courses in the workplace and support and encourage members to take part in learning.

3.3.6. Local Negotiating Committees is the organisation-wide body which supports joint working between the professional organisations which represent medical and dental employees and the employer. It has information-sharing, consultation, and negotiation functions.

3.3.7. Partnership representatives work with the employer to achieve an end goal that is beneficial for both the organisation and the employee. They are agreed by the Board's Area Partnership Forum to represent all trade unions on joint working groups.

3.3.8. Partnership working is the approach to employee relations within NHSScotland. It engages staff in governance and decision making at multiple levels.

3.3.9. Trade unions and professional organisations are independent bodies which represent the employment rights and interests of their members.

3.3.10. Trade union workplace representatives advise and support members with individual issues, such as disciplinary cases, as well as in collective issues, including industrial action.

3.4. Roles and responsibilities

3.4.1. There is a range of standard expectations which underpin all policies. [Read more about standard roles and responsibilities](#). In addition, the following specific responsibilities apply to this policy.

3.4.2. Employer

3.4.3. The employer should:

- Promote and actively participate in partnership working as the model of employee relations within the Board.
- Provide facilities, including time, to recognised trade unions and professional organisations.
- Put in place a framework, agreed by the Area Partnership Forum, to oversee facility time.
- Make sure that management at all levels is familiar with this policy.
- Make sure there is no victimisation or detrimental treatment of employees regarding their trade union or professional organisation involvement.

3.4.4. Manager

3.4.5. The manager should:

- Be familiar with this policy.
- Meet regularly with representatives within direct management to discuss facilities arrangements.
- Consider time off requests and be flexible where possible to support representatives' facility time, potentially at short notice.
- Record facility time for trade union duties and activities on the Scottish Standard Time System (SSTS)

3.4.6. Trade Unions and Professional Organisations

3.4.7. Recognised trade unions and professional organisations should:

- Elect and accredit representatives in accordance with their internal arrangements.
- Inform the employer of accredited representatives and areas of responsibility.
- Provide appropriate training for their representatives.
- Make sure representatives are familiar with the terms of this policy.
- Make sure that the time and resources provided in this context are used appropriately.
- Make sure representatives give reasonable notice of time off requirements where possible.
- Comply with monitoring arrangements.

3.4.8. Accredited representatives

3.4.9. Accredited representatives should:

- Meet regularly with the manager to discuss facilities arrangements.
- Give reasonable notice of facility time requirements and requests where possible.
- Record activity on the approved documentation.

3.4.10. Employee Director

3.4.11. The Employee Director should:

- Chair the Board staff side group.
- Provide an employee perspective on strategy development and service delivery issues.
- Act as a focal point for employees from across the local NHS system who wish to contribute to the business of the NHS Board.
- Champion partnership working and promote opportunities for employees to be involved in decision-making locally.
- Reflect the views of the Area Partnership Forum on compliance with the Staff Governance Standard.
- Provide a link between the Area Partnership Forum and the NHS Board.

3.5. Procedure

3.5.1. Facilities arrangements are negotiated by trade union and professional organisations on behalf of their accredited representatives to carry out activities and duties for their members.

3.5.2. Trade union and professional organisation activities include:

- recruitment
- campaigning
- attending branch meetings

3.5.3. Trade union and professional organisation duties include:

- representation
- negotiation and consultation
- training

3.5.4. Partnership working is the agreed model of employee relations within NHSScotland. To support this model, accredited representatives can undertake partnership roles in the interests of all employees. This can include, for example, organisational change or short-term working groups for service development. Accredited representatives are also entitled to reasonable paid time off that has been approved to undertake these activities.

3.5.5. It is recognised that some accredited representatives may have a need for additional facility time. These may include:

- branch secretaries
- members of Local Negotiating Committees and Area Partnership Forums
- those undertaking specific partnership roles
- participants in national groups

3.5.6. Whether carrying out trade union and professional organisation responsibilities or working in partnership, both elements are key to service delivery and the achievement of the Staff Governance Standard.

3.5.7. Procedure for agreeing time off

3.5.8. Accredited trade union and professional organisation representatives are legally entitled to paid time off during working hours, subject to reasonable notice. Requests for paid time off should not be unreasonably refused, subject to negotiation with the relevant service. Where paid time off has been approved, this should be paid as if at work (PAIAW).

3.5.9. Procedure for ad-hoc requests

3.5.10. When a manager has been notified that an employee has become an accredited representative, they should arrange to meet. They should discuss arrangements for agreeing time off and any other facilities that might be needed.

3.5.11. The representative should make the manager aware of any pre-planned regular commitments. For example, attendance at local partnership meetings. Advance notice will support planning for time off.

3.5.12. For short notice requests, the representative should contact the manager as agreed in their initial discussions.

3.5.13. At the end of each month, to record all facility time taken, the representative should complete a retrospective Facility time request form [insert hyperlink to Facility time request form].

3.5.14. Procedure for substantial release

3.5.15. For some accredited representatives, the nature of the roles they undertake will require more substantial facility time. To support this work, discussions should take place between the trade union and the designated representative of the employer. Where it is agreed that there is a requirement for the accredited representative to be released from some or all of their substantive post, a formal release agreement should be provided.

3.5.16. A formal release agreement will cover:

- continuity of employment
- protection of existing terms and conditions
- reporting and appraisal arrangements
- duration
- continuous professional development and accreditation
- exit strategy

3.5.17. A record of the level of facility time granted should be maintained.

3.5.18. Agreement should be reached locally on the process for submission and reporting of time off requests.

3.5.19. General facilities and resources

3.5.20. NHS Boards should agree on other resources with trade unions and professional organisations that accredited representatives require to carry out their duties and activities. This may include office accommodation, access to computers and telephone, and the scope to deduct membership fees via the payroll.

3.5.21. Funding

3.5.22. Each board should put in place a mechanism, agreed by the Area Partnership Forum, which enables overall facility time requirements to be identified. The method of funding should be determined locally. It should adhere to the principles of fairness, equity, and transparency across the organisation and the recognised trade unions and professional organisations.

3.5.23. Recording and monitoring facility time

3.5.24. The Area Partnership Forum is responsible for the monitoring of facility time including resolving any disagreements that may arise.

3.5.25. NHS Boards are legally required to produce information related to the time and cost of trade union activities and duties on an annual basis. To enable this to happen, trade union duties and activities must be recorded.

3.5.26. It is important to monitor separately the time spent on trade union activities and duties, and partnership duties. For those on substantial release an agreed nominal split of partnership and trade union activities and duties is required for reporting purposes.

3.6. Supporting documentation

It is proposed that the supporting documents listed below will be developed to support the policy. Supporting documents are not part of the consultation. These will be drafted following the consultation when responses have been analysed and the policy is developed in a final draft.

- **Employee guide**
Descriptor: guide to help employees use and understand the Facilities Arrangements for Trade Unions and Professional Organisations Policy. This will include the arrangements for ad hoc and substantial release of representatives and individual recording arrangements.
- **Manager guide**
Descriptor: guide to help managers use and understand the Facilities Arrangements for Trade Unions and Professional Organisations Policy. This will include information on the importance of trade unions and professional organisations in the governance processes of NHSScotland.
- **Facilities Arrangements for Trade Unions and Professional Organisations policy flowchart**
Descriptor: visual and text alternative flowcharts outlining the key steps in the Facilities Arrangements for Trade Unions and Professional Organisations Policy
- **Facility Time Request and Monitoring Form**
Descriptor: A retrospective form for completion by accredited representatives detailing time off requests for reporting purposes.
- **Release Agreement**
Descriptor: A template agreement document for accredited representatives for substantial release.

3.7. Consultation questions

We are inviting responses to this consultation using the Scottish Government's consultation hub. The following questions are set.

In your response, all questions have the option to answer yes or no. You are invited to provide further comment in a free text box. If you wish to make specific reference to a section of the policy, please quote the relevant numbered line in this consultation document.

1. Do you feel there are any gaps in the policy?
2. Do you feel there are any gaps in the proposed list of supporting documents?
3. Do you have any other comments to make on the policy?
4. Do you have any views on the potential impacts of this policy on equalities groups?

It is against the law to discriminate against someone because of: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex or sexual orientation. These are protected characteristics under the Equality Act, 2010.

4. Personal Development Planning and Performance Review Policy

4.1. Aim

4.1.1. The Personal Development Planning and Performance Review Policy aims to provide a framework to make sure all employees:

- Actively participate in appraisal, personal development planning and related activities.
- Have the skills and knowledge to deliver the required standards of their role.

4.2. Scope

4.2.1. This policy applies to all employees and bank and sessional workers. References to employees should be taken to apply to bank and sessional workers unless otherwise stated.

4.2.2. This policy complies with current legislation and meets the aims of the [Public Sector Equality Duty](#) of the [Equality Act 2010](#).

4.3. Definitions

4.3.1. An **appraisal** is a meeting between a reviewer and an employee to discuss their performance over the past 12 months.

4.3.2. **Continuous professional development (CPD)** is a process of ongoing learning activities. It is used by employees to develop and maintain the necessary knowledge and skills to work effectively. CPD is mandatory for some roles.

4.3.3. **Mandatory training** is training required by NHSScotland or individual boards.

4.3.4. **Objectives** are clear statements agreed by the employee and the reviewer that set out what should be achieved at work over the next 12 months. They can also support the employee's career progression.

4.3.5. A **personal development plan (PDP)** is an ongoing process which records the employee's agreed PDP activities over the next 12 months. This should identify any learning and development needs and activities, and training.

4.3.6. **Revalidation** is the process that some healthcare professionals follow in order to maintain their registration with a regulatory body and ensure their fitness to practise.

4.3.7. Reviewer is the person who undertakes the appraisal. The reviewer is normally the employee's manager. However, a colleague with knowledge of the employee and their role could be appointed to be the reviewer by the manager.

4.3.8. Scottish Online Appraisal Resource (SOAR) is the online system used to support and facilitate the appraisal process for doctors working in Scotland.

4.3.9. Statutory training is training required by legislation.

4.3.10. Turas Appraisal is an online system used to support the personal development planning and performance review process for NHSScotland Agenda for Change employees, and executives and senior managers.

4.4. Roles and responsibilities

4.4.1. There is a range of standard expectations which underpin all policies. [Read more about standard roles and responsibilities](#). In addition, the following specific responsibilities apply to this policy.

4.4.2. Manager

4.4.3. The manager should:

- Make sure team details held on Turas Appraisal, SOAR or other relevant systems are accurate.
- Make sure employees have access to the relevant system.
- Make sure every employee has an annual appraisal discussion to review their performance and agree their personal development plan. This may be undertaken by the manager or a designated reviewer.
- Allow employees protected time to prepare for their appraisal.
- Consider reasonable adjustments required to support the process in response to the employee's declared needs under the Equality Act 2010.
- Help employees understand what their employer expects of them as part of the personal development planning and performance review process.
- Make sure employees are supported to undertake statutory and mandatory training.
- Regularly provide constructive and positive feedback on the employee's work and related development.
- Promptly discuss any performance concerns in line with the appropriate NHSScotland workforce policy.

4.4.4. Reviewer

4.4.5. If the reviewer is not the manager, they should:

- Make sure they have the required information from the manager or key stakeholders to prepare for the appraisal.
- Make sure they have the necessary skills to undertake the appraisal.

4.4.6. For medical and dental reviewers, there is a requirement for the individual to be on the medical or dental register and have undertaken appropriate appraisal training.

4.4.7. Employee

4.4.8. The employee should:

- Actively participate in the appraisal process.
- Take ownership for their learning and development and seek to achieve the agreed outcomes identified through the process.
- Undertake all statutory and mandatory training.
- Advise the reviewer of any factors impacting their ability to achieve the agreed outcomes and learning plan.

4.5. Procedure

4.5.1. NHSScotland is committed to making sure employees are appropriately trained and developed in line with the [Staff Governance Standard](#). The organisation will equip employees to meet current and anticipated future service needs through relevant learning and development. Well-structured appraisals will support this. They can also improve staff engagement, employee health and wellbeing, and patient outcomes.

4.5.2. There are 3 different appraisal systems depending on the staff group. These are:

- Agenda for Change
- Medical and Dental
- Executive and senior managers

4.5.3. The personal development planning and performance review process provides a clear framework for managers to give feedback and to support employees. Managers or reviewers should meet with employees regularly, or at least annually, to discuss the employee's progress and provide any feedback.

4.5.4. Regular meetings are also an opportunity to discuss any issues or challenges. The manager or reviewer should address any issues affecting the employee's performance as they arise. They should only raise issues previously discussed with the employee at the appraisal meeting. Any performance or capability issues should be managed in line with the [Capability Policy](#).

4.5.5. There are 3 elements to the personal development planning and performance review process:

4.5.6. Performance Review

4.5.7. The first step is for the manager or reviewer to meet with the employee to discuss their performance over the review period, usually 12 months. For some employees this will also include a mid-year review. The employee and reviewer should agree a date for the review with sufficient time to allow for preparation.

4.5.8. The review step involves the employee reflecting on their own performance and the manager or reviewer giving objective feedback. It includes both praising good work and providing guidance on improving work performance where necessary.

4.5.9. The review should consider the following:

- what went well
- what could have gone better
- what difference does the employee want to make next year

4.5.10. Further information is available in the following documents:

- Manager guide [insert hyperlink to Manager guide]
- Employee guide [insert hyperlink to Employee guide]

4.5.11. For new employees the purpose of the initial review meeting is to set objectives and agree a PDP for the coming year.

4.5.12. Objectives

4.5.13. The reviewer and the employee should agree a number of work objectives for the following 12 months. The number may be specified depending on the staff group. Objectives should be Specific, Measurable, Achievable, Realistic and Time-bound (SMART). Objectives should also reflect organisational priorities and needs.

4.5.14. The employee's objectives should inform ongoing discussions, appraisal and PDP for the coming year.

4.5.15. Personal development plan (PDP)

4.5.16. The PDP is an agreed learning and development plan. It should be driven by work priorities and objectives and include any areas for improvement identified in the performance review. Statutory and mandatory training requirements are a key element of personal development.

Consideration can also be given to wider development and career aspirations.

4.5.17. Managers should meet with employees who are new to the role within 3 months of their start date to agree the following:

- objectives
- training that new employees must complete within their induction period
- PDP for the coming review period

4.5.18. Some employees must revalidate with a regulatory body such as:

- General Medical Council (GMC)
- Nursing and Midwifery Council (NMC)
- Health and Care Professions Council (HCPC)
- General Dental Council (GDC)

4.5.19. Employees can use the PDP process when producing the required evidence.

4.5.20. Recording and monitoring

4.5.21. The completion of the personal development planning and performance review on the appropriate system is required to maintain individual records of the process and produce organisation level data. NHS Boards should monitor the level of reviews undertaken to measure compliance against national targets.

4.5.22. Related policies

4.5.23. The following policy is related to the Personal Development Planning and Performance Review Policy:

- [Capability Policy](#)

4.6. Supporting documentation

It is proposed that the supporting documents listed below will be developed to support the policy. Supporting documents are not part of the consultation. These will be drafted following the consultation when responses have been analysed and the policy is developed in a final draft.

- **Employee guide**
Descriptor: guide to help employees use and understand the Personal Development Planning and Performance Review Policy. This will include the areas that must be considered to fully engage in the process.
- **Manager guide**
Descriptor: guide to help managers use and understand the Personal Development Planning and Performance Review Policy. This will include the areas that must be considered to support employees to attain the skills and knowledge to deliver the required standards of their role.
- **Personal development planning and performance review policy flowchart**
Descriptor: visual and text alternative flowcharts outlining the key steps in the Personal Development Planning and Performance Review Policy.

4.7. Consultation questions

We are inviting responses to this consultation using the Scottish Government's consultation hub. The following questions are set.

In your response, all questions have the option to answer yes or no. You are invited to provide further comment in a free text box. If you wish to make specific reference to a section of the policy, please quote the relevant numbered line in this consultation document.

1. Do you feel there are any gaps in the policy?
2. Do you feel there are any gaps in the proposed list of supporting documents?
3. Do you have any other comments to make on the policy?
4. Do you have any views on the potential impacts of this policy on equalities groups?

It is against the law to discriminate against someone because of: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex or sexual orientation. These are protected characteristics under the Equality Act, 2010.

5. Employment Checks Policy

5.1. Aim

5.1.1. The Employment Checks Policy aims to define the essential checks required before and during employment or paid and unpaid placements.

5.2. Scope

5.2.1. This policy applies to all employees and candidates for employment. It also applies to current and future bank, agency, sessional workers, volunteers, contractors, and those on placement or work experience including trainees and students.

5.2.2. References to employees apply to all other groups unless otherwise stated.

5.2.3. This policy complies with current legislation and meets the aims of the [Public Sector Equality Duty](#) of the [Equality Act 2010](#).

5.3. Definitions

5.3.1. A **candidate** is someone who has been shortlisted for a post within NHSScotland.

5.3.2. **Exposure-prone procedures** are invasive procedures such as surgery, midwifery or dental care where the employee may expose the patient to infected body fluids.

5.3.3. **Secondary employment** is where an employee has more than one job with either the NHS or another organisation. This includes work undertaken on a self-employed basis.

5.4. Roles and responsibilities

5.4.1. There is a range of standard expectations which underpin all policies. [Read more about standard roles and responsibilities](#). In addition, the following specific responsibilities apply to this policy.

5.4.2. Employer

5.4.3. The employer should:

- Make sure that systems are in place for the necessary checks to be made

5.4.4. Manager

5.4.5. The manager should:

- Provide full job-related information for Occupational Health Service (OHS) screening.
- Check where a significant change to roles has occurred to determine whether membership of the Protecting Vulnerable Groups (PVG) scheme, a disclosure check, OHS, or other screening is required.
- Consider information received as a result of checks and take appropriate action.
- Check continued registration status as required.
- Check continued right to work status as required.
- Provide factual references when requested.

5.4.6. Employee

5.4.7. The employee should:

- Promptly inform their manager of any change in health or the status of other employment checks.
- Maintain registration where applicable.
- Maintain right to work status where applicable.

5.4.8. Recruitment leads

5.4.9. Recruitment leads should:

- Provide advice to the manager when decision-making.
- Liaise with statutory and regulatory bodies.

5.4.10. Candidates

5.4.11. The candidate must provide full, accurate information and documentation in relation to employment checks.

5.5. Procedure

5.5.1. The level of employment checks required for an individual may vary depending on a range of factors, including the following:

- role applied for
- location of the role
- applicant's work history

5.5.2. Managers must only make a decision to employ a candidate once all employment checks have been completed and the information has been reviewed in a holistic manner.

- 5.5.3.** To make an informed decision, managers should use the employment checks risk assessment [insert hyperlink to employment checks risk assessment].
- 5.5.4.** All recruitment decisions must be communicated to the relevant department in line with the employing organisation's policies and procedures.
- 5.5.5.** This policy outlines the standards of employment checks required by all employing organisations within NHSScotland. If an employing organisation undertakes additional employment checks, then those checks must be necessary, proportionate and transparent. If the employing organisation has no justifiable reason for conducting additional employment checks, they should not be performed.
- 5.5.6.** All employment checks must be recorded on the approved and agreed systems within the employing organisation.
- 5.5.7.** All information must be handled in line with the relevant data protection rules.
- 5.5.8. Employment checks**
- 5.5.9.** Employment checks support a manager in deciding an individual's suitability for employment in a job role.
- 5.5.10.** Employment checks are not limited to new employees, but may also be required for individuals who are moving between job roles within an employer.
- 5.5.11.** The application of employment checks will vary between job roles.
- 5.5.12.** A suitable level of screening must be applied to all individuals regardless of contract type.
- 5.5.13.** Legislation, in particular, the Human Rights Act 1998, Data Protection Act 2018, and Rehabilitation of Offenders Act 1974 must be complied with. By doing so, employers can make sure that employment checks do not:
- Interfere with the individual's right to privacy.
 - Process or disclose any information that employers may obtain in an inappropriate way or without due cause.
 - Use information in a discriminatory way.
- 5.5.14.** When conducting employment checks, wherever possible all documentation should be original.

5.5.15. More detail on employment checks is provided in the following documents:

- Guide for managers [insert hyperlink to Guide for managers]
- Guide for employees [insert hyperlink to Guide for employees]

5.5.16. Employees and candidates should be aware that falsifying information or documentation or undertaking secondary employment during contracted hours may be considered fraudulent. Such cases may be referred to NHSScotland Counter Fraud Services (CFS) and could result in criminal proceedings and relevant conduct processes.

5.5.17. For concerns about suspected fraud, employers should contact [NHSScotland Counter Fraud Services](#).

5.5.18. Verification of identity and address

5.5.19. Verification of identity and address are fundamental employment checks. They should be the first checks that are performed. Employers should not proceed with other employment checks until an individual's identity is proven.

5.5.20. The candidate must provide the employer with the following:

- photographic identification
- proof of their current address

5.5.21. Wherever possible, original documents should be used. Employers should not accept any copies, unless they have been certified by a solicitor.

5.5.22. If the candidate cannot provide copies of their identification containing a photograph, they should provide additional documents and a certified passport-sized photograph.

5.5.23. For more information on how to carry out these checks, please see the following guides:

- Guide for managers [insert hyperlink to Guide for managers]
- Guide for employees [insert hyperlink to Guide for employees]

5.5.24. Right to work in UK

5.5.25. An employer must confirm that the candidate has the right to work in the UK for the duration of their employment. Failure to carry out this employment check makes the employer liable for a civil penalty or criminal conviction.

5.5.26. For more information on how to carry out these checks, please see the following guides:

- Guide for managers [insert hyperlink to Guide for managers]
- Guide for employees [insert hyperlink to Guide for employees].

5.5.27. Criminal record checks

5.5.28. Dependent on the post that the individual is applying for, there may be a requirement to undertake criminal record checks or to disclose convictions. If the nature of the employee's job or location changes during the course of their employment a criminal record check may be required.

5.5.29. For more information on how to carry out these checks, please see the following guides:

- Guide for managers [insert hyperlink to Guide for managers]
- Guide for employees [insert hyperlink to Guide for employees].

5.5.30. Under the Rehabilitation of Offenders Act 1974, most convictions and alternatives to prosecution will be classified as unspent for the duration of their disclosure period.

5.5.31. Applicants must declare these unspent convictions, or alternatives to prosecution, during the application process.

5.5.32. Some offences must always be disclosed regardless of how much time has passed since the conviction or whether the offence is classified as spent. Candidates should contact Disclosure Scotland [for further information](#).

5.5.33. Qualifications

5.5.34. Employers must make sure individuals hold the professional or educational qualifications that are essential for the role. The purpose of a qualification check is to verify the educational or professional qualification information provided by the individual when they applied for the role.

5.5.35. For more information on how to carry out these checks, please see the following guides:

- Guide for managers [insert hyperlink to Guide for managers]
- Guide for employees [insert hyperlink to Guide for employees]

5.5.36. Professional registration

5.5.37. Employers must check the registration status of all healthcare professionals with the appropriate regulatory body before the individual starts employment and for the duration of employment in that role.

5.5.38. For more information on how to carry out these checks, please see the following guides:

- Guide for managers [insert hyperlink to Guide for managers]
- Guide for employees [insert hyperlink to Guide for employees]

5.5.39. References

5.5.40. Previous employment and training history must be checked, and satisfactory references received before a recruitment decision can be made. Reference checks are used to allow employers to check the accuracy of an individual's previous employment and training history.

5.5.41. References should only be sought after an individual has been advised that they are the preferred candidate for a particular role.

5.5.42. Employers must always seek the candidate's consent before approaching the candidate's current employer.

5.5.43. Employers should check at least three years of previous employment or training history.

5.5.44. Any gaps of 31 days in a candidate's employment or training history need to be explored with them.

5.5.45. Employers should aim to check a period which covers 2 separate employers where possible. One reference should be from the candidate's current or most recent employer.

5.5.46. Where an individual has been with one employer for 3 years or more, one reference may be sufficient.

5.5.47. Where the candidate has had more than 2 employers in the preceding 3 years, Employers should seek additional references if this will help to support the decision-making process.

5.5.48. The following principles should be applied:

5.5.49. External

- Minimum 2 references spanning three years unless the applicant has been with one employer for 3 years or more

5.5.50. Internal to Board or NHSScotland

- One from current line manager

5.5.51. There may be situations where consideration to alternatives may be required, such as relationship issues between the parties, or the ad hoc nature of previous work.

5.5.52. Pre-employment health check

5.5.53. All candidates must complete a pre-employment health questionnaire which will be used to inform the pre-employment health check process.

5.5.54. To comply with the Equality Act 2010, the candidate must not be asked to provide this information until a conditional offer of work or placement has been made.

5.5.55. For more information on how to carry out these checks, please see the following guides:

- Guide for managers [insert hyperlink to Guide for managers]
- Guide for employees [insert hyperlink to Guide for employees]

5.5.56. Where an employee takes on a new or additional job, they may be required to undergo a pre-employment health check. It will depend on whether the level or type of risk has changed. For example, where the new role involves:

- exposure-prone procedure (EPP) working
- a change in job family
- a change in manual handling requirements

5.5.57. Secondary employment

5.5.58. It is recognised that some employees may undertake additional employment for a variety of reasons.

5.5.59. Secondary employment may involve:

- an additional contract of employment with the same employer or another employer
- bank or locum work within or outside the employing organisation
- agency work
- self-employment
- armed forces reservists

5.5.60. Employees must notify their manager of any secondary employment they will be, or plan to be, undertaking. Any further change to this secondary employment, such as a change in work pattern or the number of hours working, should also be notified.

5.5.61. Any secondary employment must not:

- Present an actual or potential conflict of interest.
- Have any health and safety implications for the employee, their colleagues or patients or service users.
- Have an adverse impact on the employee's ability to maintain a satisfactory level of attendance at work. See [Attendance Policy](#).
- Take place during contracted hours of work with the NHS.
- Have an adverse impact on the employee's ability to fulfil the requirements of their role.
- Render the employee vulnerable to bribery and the organisation to corruption.

5.5.62. In relation to any secondary employment, employees must ensure they meet the provisions laid out in legislation including the following:

- [Health and Safety at Work etc. Act 1974](#)
- [Working Time Regulations 1998](#)

5.5.63. Where additional employment has impacted on the above categories this may require investigation under the [NHSScotland Workforce Investigation Process](#).

5.5.64. Employees should also notify their manager of any volunteering or unpaid work if it has the potential to have an impact under the categories outlined above [anchor link to “any secondary employment must not” section].

5.6. Supporting documentation

It is proposed that the supporting documents listed below will be developed to support the policy. Supporting documents are not part of the consultation. These will be drafted following the consultation when responses have been analysed and the policy is developed in a final draft.

- **Employee guide**
Descriptor: guide to help employees use and understand the Employment Checks Policy. This will include the areas that the employee must comply with to ensure that they are able to fulfil their role.
- **Manager guide**
Descriptor: guide to help managers use and understand the Employment Checks Policy. This will include the areas that must be considered to make safe recruitment decisions.
- **Employment checks policy flowchart**
Descriptor: visual and text alternative flowcharts outlining the key steps in the Employment Checks Policy.
- **Employment checks risk assessment**
Description: tool to support managers with the decision-making process.

5.7. Consultation questions

We are inviting responses to this consultation using the Scottish Government's consultation hub. The following questions are set.

In your response, all questions have the option to answer yes or no. You are invited to provide further comment in a free text box. If you wish to make specific reference to a section of the policy, please quote the relevant numbered line in this consultation document.

1. Do you feel there are any gaps in the policy?
2. Do you feel there are any gaps in the proposed list of supporting documents?
3. Do you have any other comments to make on the policy?
4. Do you have any views on the potential impacts of this policy on equalities groups?

It is against the law to discriminate against someone because of: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex or sexual orientation. These are protected characteristics under the Equality Act, 2010.

6. Fixed-Term Contract Policy

6.1. Aim

6.1.1. The Fixed-Term Contract policy aims to:

- Provide the framework for managing fixed-term contracts and making sure they are only used where necessary and appropriate.
- Provide employees on fixed-term contracts with equal access to development opportunities and the same or equivalent terms and conditions as employees on permanent contracts.

6.2. Scope

6.2.1. This policy applies to all employees on a fixed-term contract, including locum medical staff directly employed by NHSScotland organisations. The policy does not apply to agency workers and apprentices.

6.2.2. Employees on secondment into fixed-term posts are covered by the NHSScotland Secondment Policy [[insert hyperlink NHSScotland Secondment Policy](#)]. The Secondment Policy does not apply if a secondment has not been supported.

6.2.3. This policy complies with current legislation and meets the aims of the [Public Sector Equality Duty](#) of the [Equality Act 2010](#).

6.3. Definitions

6.3.1. A **fixed-term contract** is a contract of employment where one of the following applies:

- It is for a specific period that is fixed in advance.
- It terminates on the completion of a particular task.
- It terminates upon the occurrence or non-occurrence of any other specified event.

6.3.2. **Redeployment** is the process of securing suitable alternative employment for an employee who is displaced or unable to continue in their current role.

6.3.3. **Secondment** is where an employee is transferred temporarily from their substantive post to another post. The employee is expected to return to their substantive post at the end of the agreed term of the secondment.

6.3.4. A **substantive** post is an employee's main contractual post, which is normally permanent.

6.3.5. Suitable alternative employment describes the factors used to determine if a post is appropriate in a redeployment situation. The factors include the following:

- job role
- pay and benefits
- job location and hours of work
- Special Class or Mental Health Officer pension status
- employee's skills and experience
- employee's circumstances

6.4. Roles and responsibilities

6.4.1. There is a range of standard expectations which underpin all policies. [Read more about standard roles and responsibilities](#). In addition, the following specific responsibilities apply to this policy.

6.4.2. Manager

6.4.3. The manager should:

- Review the status of the contract on a timely basis.
- Keep the employee informed of the status of the fixed-term contract.
- Support the employee through the period of employment and signpost them to sources for permanent employment.
- Engage with the appropriate redeployment contact if the contract is not to be renewed.
- Make sure the employee receives the defined period on redeployment prior to the contract end date.

6.4.4. Employee

6.4.5. The employee should:

- Actively engage with the redeployment process where the contract is not to be renewed.
- Actively search for alternate employment opportunities where the contract is not to be renewed.

6.5. Procedure

6.5.1. NHSScotland should use permanent employment contracts wherever possible and fixed-term only where necessary and appropriate. The organisation should permanently appoint staff if permanent employment is highly likely at the end of the fixed-term period. Employees on fixed-term contracts are entitled to the same terms and conditions of employment as permanent staff. The employer should not treat them less favourably than permanent employees unless objectively justifiable.

6.5.2. Appropriate use of fixed-term contracts

6.5.3. Employers should only use fixed-term contracts as time-limited, short-term options. Employees should not usually be in non-permanent employment for more than 2 years or be subject to more than 2 renewals within one year. Fixed-term contracts may be appropriate in these situations:

- Cover for long-term sickness absence, maternity leave, extended study leave, secondments, or career breaks.
- To protect posts for permanent staff where services are being restructured or redesigned.
- Posts without permanent funding.
- Project or research posts.

6.5.4. Reviewing fixed-term contracts

6.5.5. The employer should review all fixed-term contracts mid-term and then as appropriate. The manager and employee should review the contract status, and the manager should confirm the outcome of the discussion in writing.

6.5.6. There are 3 options which may arise during such discussions:

- no change to the length of the contract, and it will end
- extend the length of the contract
- make the post permanent

6.5.7. Ending the fixed-term contract

6.5.8. When a fixed-term contract comes to an end, it will take one of two forms, dependent on the reason for the contract:

- Where the substantive postholder returns such as after sick leave or maternity, or is appointed and the fixed-term contract was to fulfil the role pending the appointment of the permanent postholder, it is a non-redundancy situation.
- Where the post no longer exists due to the end of the project or funding, it is a redundancy situation.

6.5.9. Should the employee become displaced from the role before its agreed expiry date, the employee should be provided with suitable alternative employment. It should be for the remainder of the fixed-term on the terms and conditions they were employed. This applies irrespective of the reason for the fixed-term contract.

6.5.10. When the contract is to end, the manager will meet with the employee. The meeting should occur with sufficient time to allow access to redeployment. The access period for employees displaced due to non-renewal of a fixed-term contract can be for up to three months but certainly no less than their contractual notice period.

6.5.11. The manager should confirm the discussion details in writing within 7 days of the meeting. As the fixed-term contract ends with a dismissal, the correspondence should confirm the employee's right of appeal. For more information on ending a fixed-term contract, please see the following guides:

- Guide for managers [insert hyperlink to Guide for managers]
- Guide for employees [insert hyperlink to Guide for employees]

6.5.12. The manager should grant the employee reasonable time off to attend interviews during the redeployment period.

6.5.13. Employees whose fixed-term contract ends in a redundancy situation may be eligible for a redundancy payment in line with the [NHS Terms and Conditions of Service](#).

6.5.14. If redeployed into a suitable alternative post, the employee may be entitled to protection if the post has ended in a redundancy situation.

6.5.15. Protection of earnings and redundancy payment will not apply if the employee accepts a post which is not considered a suitable alternative. Similarly, employees who do not actively participate in the redeployment process or unreasonably reject suitable alternative employment may lose their entitlement to a redundancy payment.

6.5.16. Renewing fixed-term contracts

6.5.17. Employees with a succession of fixed-term contracts totaling over 4 years of continuous service have a legal right to permanent contractual status. However, there may be occasions where the employer can objectively justify continued fixed-term contracts.

6.5.18. If the post is made permanent, the employer should permanently appoint the employee to the role without advertising. If the post remains fixed-term, the employee should be made permanent and be redeployed when the fixed-term post ends.

6.5.19. NHSScotland is also committed to permanently appointing employees who have more than 2 years of continuous service and meet each of the following criteria:

6.5.20. The employee must have:

- Held continuous fixed-term contracts, which were used to protect posts for permanent staff due to planned organisational change, service reconfiguration, or redeployment.

6.5.21. The organisation must have:

- Recurring funds for the post beyond 2 years to retain the employee. Alternatively, it must carry out a positive risk assessment to establish the impact should recurring funding not exist.

6.5.22. If the above criteria are met, but it is known that the contract will not be renewed within 3 months of reaching 2 years' service, the employee's contract of employment will remain fixed-term.

6.5.23. Unless there are clear, objective, specified reasons, the employer should not renew the initial contract:

- more than 2 times within 12 months
- for less than 3 months

6.5.24. Where the employer needs to renew the fixed-term contract, the manager should extend it with agreement from the employee. The manager will then arrange for a variation to the contract of employment to be issued to the employee using existing organisational procedures.

6.5.25. Managers should avoid fixed-term contract employees working past the specified expiry date. If the employer does not renew the contract, there is a risk that it may be considered open-ended.

6.5.26. Making the post permanent

6.5.27. Where the manager decides to make the fixed-term post permanent, they should advertise it through the normal recruitment process. The employee currently undertaking the role on a fixed-term contract basis can apply. However, as the employee's fixed-term contract is coming to an end, if they are on the redeployment register, they should be considered for the permanent post via redeployment.

6.5.28. Permanent employees in fixed-term contracts

6.5.29. Employees whose fixed-term contract ends in a redundancy situation may be eligible for a redundancy payment in line with [NHS Terms and Conditions of Service](#). When individuals with continuous service within the NHS apply for a fixed-term contract, boards can refuse any such appointment because their previous service can count towards redundancy entitlement.

6.5.30. A permanent employee may be appointed to, and accept a fixed-term contract. This may be where the employer rejects a secondment request, but the employee still accepts the post. The employer must advise the employee in writing that their existing permanent contract has ended, and their new contract is fixed-term. The organisation should manage the employee's contract in the same way as that of other fixed-term employees.

6.5.31. Pregnant employees in fixed-term contracts

6.5.32. The employer must extend a fixed-term contract to allow pregnant employees to access their maternity entitlements. The employee may be entitled to access redeployment and redundancy provisions. For more information, please see the following guides:

- Guide for managers [insert hyperlink to Guide for managers]
- Guide for employees [insert hyperlink to Guide for employees]

6.5.33. Read more about support for pregnant employees on fixed-term contracts in the [Maternity Policy](#).

6.6. Supporting documentation

It is proposed that the supporting documents listed below will be developed to support the policy. Supporting documents are not part of the consultation. These will be drafted following the consultation when responses have been analysed and the policy is developed in a final draft.

- **Employee guide**
Descriptor: guide to help employees use and understand the Fixed-Term Contract Policy. This will include information on the nature and entitlement of fixed-term contracts and the implications of accepting a post where secondment does not apply.
- **Manager guide**
Descriptor: guide to help managers use and understand the Fixed-Term Contracts Policy. This will include information on the nature and entitlement of fixed-term contracts and the implications of an employee accepting a post where secondment does not apply.
- **Fixed-term contracts policy flowchart**
Descriptor: visual and text alternative flowcharts outlining the key steps in the Fixed-Term Contract Policy.

6.7. Consultation questions

We are inviting responses to this consultation using the Scottish Government's consultation hub. The following questions are set.

In your response, all questions have the option to answer yes or no. You are invited to provide further comment in a free text box. If you wish to make specific reference to a section of the policy, please quote the relevant numbered line in this consultation document.

1. Do you feel there are any gaps in the policy?
2. Do you feel there are any gaps in the proposed list of supporting documents?
3. Do you have any other comments to make on the policy?
4. Do you have any views on the potential impacts of this policy on equalities groups?

It is against the law to discriminate against someone because of: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex or sexual orientation. These are protected characteristics under the Equality Act, 2010.

7. Secondment Policy

7.1. Aim

7.1.1. The Secondment Policy aims to provide:

- A framework to manage secondment requests.
- A mechanism to support the development of employees.

7.2. Scope

7.2.1. This policy applies to all employees who wish to apply for a secondment.

7.2.2. This policy complies with current legislation and meets the aims of the [Public Sector Equality Duty](#) of the [Equality Act 2010](#).

7.3. Definitions

7.3.1. **Secondment** is where an employee continues to be employed by their employer but is transferred temporarily from their substantive post to another post. This will be for a specific purpose and period of time. The employee is expected to return to their substantive post at the end of the agreed term of the secondment.

7.3.2. **Internal secondment** is where the post to which the employee is seconded is with the same employer.

7.3.3. **External secondment** is where the post to which the employee is seconded to is with a different employer. This may be within or outside of the NHS.

7.3.4. **Receiving manager** is the manager who will host the employee during their secondment.

7.3.5. **Releasing manager** is the manager who is the employee's substantive manager.

7.3.6. **Special class status** is a category within the NHS pension scheme for some members pre-April 1995. Dependent on the nature of the work they are entitled to earlier than normal pension age and, in some cases, other enhanced terms. Mental Health Officer status has similar entitlements.

7.3.7. A **substantive** post is an employee's main contractual post, which is normally permanent.

7.4. Roles and responsibilities

7.4.1. There is a range of standard expectations which underpin all policies. [Read more about standard roles and responsibilities](#). In addition, the following specific responsibilities apply to this policy.

7.4.2. Releasing manager

7.4.3. The releasing manager should:

- Consider all secondment requests and only refuse a request if there are clear service reasons why it is not practicable.
- Consider backfill arrangements to support the secondment.
- Liaise with both the secondee and the receiving manager to complete the Secondment Agreement [insert hyperlink to Secondment Agreement].
- Process secondment arrangements in line with local procedure.
- Make sure the employee is aware of and agrees the terms and conditions implications of their secondment, including any impact on pensions, such as special class status.
- Make sure there is continued communication with the receiving manager regarding fulfilment of the secondment agreement.
- Engage with the secondee if there are any changes to their substantive post.
- Support employees returning to their substantive post at the end of their secondment.
- Understand any implications arising from the termination of a secondment agreement, at term, or earlier.

7.4.4. Receiving manager

7.4.5. The receiving manager should:

- Support the completion of the Secondment Agreement, liaising with both the secondee and the releasing manager.
- Support and manage the secondee in line with the arrangements detailed in the secondment agreement.
- Engage with the secondee and the releasing manager in relation to any significant issues which arise during the secondment, such as conduct or capability.
- Engage with the releasing manager to discuss any changes to the terms of the secondment agreement.

7.4.6. Secondee

7.4.7. The secondee should:

- Discuss the potential for a secondment with their manager at the earliest possible opportunity when considering a secondment.

- Make sure the secondment can be supported by their manager prior to accepting the secondment.
- Be aware of and agree to the terms and conditions implications of their secondment, including any impact on pensions, such as special class status.
- Maintain contact with the releasing manager throughout the secondment period.
- Understand any implications arising from the termination of a secondment agreement, at term, or earlier.

7.5. Procedure

7.5.1. Secondments can be beneficial to the individual and the wider organisation in terms of skills development. A secondment period will usually be between 3 months and 2 years. In exceptional circumstances, this may be extended or a longer term agreed.

7.5.2. Each application should be assessed on a case-by-case basis, taking a person-centred approach. There may be service or operational issues which lead to an application being declined. However, managers should give all secondment requests serious consideration and support requests where service demands allow. No secondment application should be unreasonably refused.

7.5.3. How to apply

7.5.4. Employees who wish to be considered for a secondment should meet with their manager to discuss their request at the earliest possible opportunity. This should preferably be prior to making an application. Where this is not possible, the employee must discuss the secondment opportunity with their manager before accepting the offer. The releasing manager should make every effort to meet the secondee and provide a decision in line with any application deadlines.

7.5.5. Agreement

7.5.6. When the manager agrees to the employee's secondment, all parties should sign a Secondment Agreement. The written agreement should confirm the employee's secondment period. It should also detail the management arrangements for the duration of the secondment and any temporary contract changes.

7.5.7. Refusal of the request

7.5.8. Where a manager refuses the employee's request, their decision, including the reasons for refusal, should be confirmed in writing within 7

calendar days of the meeting. More detail is provided in the following documents:

- Guide for managers [insert hyperlink to Guide for managers]
- Guide for employees [insert hyperlink to Guide for employees]

7.5.9. In the event of refusal of an application, the employee may appeal. For details see below [anchor link to section on appeal process].

7.5.10. Where a secondment request is rejected and the employee chooses to accept the post, the employee must be advised in writing that their existing permanent contract has come to an end, and their new contract is fixed-term. The employee will then require to resign from their post. Please refer to the Fixed-Term Contract Policy [insert hyperlink to Fixed-Term Contract Policy].

7.5.11. Appeal process

7.5.12. The employee will have a right to appeal within 14 calendar days of receipt of the written outcome of the initial secondment or any extension request. When exercising this right, the employee must identify the reason for their appeal.

7.5.13. The appeal panel will be chaired by the next level of management and supported by an HR adviser who has not previously been involved in the process.

7.5.14. The appeal panel Chair will inform all parties of the arrangements for the hearing in writing no later than 14 calendar days before the hearing.

7.5.15. The process for the appeal should be managed in line with the [Formal hearing guide](#).

7.5.16. Terms and conditions of employment

7.5.17. Every effort should be made for the secondee's post to be kept open for them to return to at the end of the secondment period. However, it is recognised that there will be cases where this is not possible due to the nature of the role or the ability to fill the post on a temporary basis. If this is not possible, they will return to a suitable alternative post. The employee should be advised if this is the case before they accept the secondment.

7.5.18. Where the secondment is requested by the employee, the terms and conditions of the advertised post will apply for the duration of their secondment. The employee should be made aware of any changes to their pay or terms and conditions, and agree to these changes. If the seconded post attracts a higher pay band, the secondee will return to their substantive

post on the terms and conditions that would have applied had they not gone on secondment. In the event of future promotion, incremental credit will be given for the time spent at the higher band.

7.5.19. Where the organisation seeks to second an employee either within the organisation or externally, they are entitled to maintain the terms and conditions of their substantive post unless mutually agreed otherwise.

7.5.20. Time spent on secondments within or external to the NHS will not affect continuity of employment.

7.5.21. Keeping in touch

7.5.22. Keeping in touch with secondees throughout the period of secondment is good practice.

7.5.23. Arrangements for this should be clearly documented within the Secondment Agreement. Both the secondee and the releasing manager will be responsible for keeping in touch. The releasing manager should act as the contact point and keep the secondee up to date with developments regarding their substantive role or organisation.

7.5.24. Appraisal and Personal Development Planning (PDP)

7.5.25. Arrangements for appraisal and PDP should be clearly detailed within the Secondment Agreement.

7.5.26. Maintaining professional registration

7.5.27. Where an employee is required to hold professional registration for their substantive post, they should retain this registration for the duration of their secondment.

7.5.28. Organisational change

7.5.29. If there are any changes to the employee's substantive post, which constitutes organisational change as defined in the local organisational change policy, the arrangements of that policy will apply. As a minimum, the employee must be:

- advised of the change
- consulted with regarding the change
- offered the opportunity to be considered for any posts available to the affected group

7.5.30. The employee may be unsuccessful in obtaining a post within the organisational change process. If so, the Redeployment Policy will apply with any protections relevant to the substantive post.

7.5.31. End of secondment discussion

7.5.32. The releasing manager should meet with the secondee towards the end of their secondment to discuss and agree arrangements for their return.

7.5.33. Where the employee is not returning to their substantive post this discussion should take place four months before the end of the secondment to allow suitable time to support any necessary time on the redeployment register. Please refer to the Redeployment Policy [[insert hyperlink to Redeployment Policy](#)].

7.5.34. Extending a secondment

7.5.35. If the receiving manager wishes to extend the secondment, they should discuss this with the releasing manager before discussion with the secondee. The receiving manager should then meet with the secondee to discuss whether they wish to apply for an extension. If the releasing manager approves the application for an extended secondment, this should be confirmed in writing. This should confirm the extended end date. Where a manager refuses the extension, they should meet with the secondee to advise of their decision. This should be confirmed in writing within 7 calendar days of the meeting and include the reasons for refusal and right of appeal.

7.5.36. Ending a secondment

7.5.37. In general, secondments should be allowed to run for the timescales outlined within the Secondment Agreement. However, there may be exceptional circumstances which require the releasing manager to recall a secondee early. This would be done in accordance with the terms of the secondment agreement.

7.5.38. The receiving manager may, in exceptional circumstances, end the secondment early, in accordance with the terms of the secondment agreement. If the reason for ending the secondment early relates to absence, capability, or conduct issues, the receiving manager should attempt to resolve these matters with support from the releasing manager before ending the secondment.

7.5.39. The secondee also has the right to end their secondment by giving their substantive manager the notice specified in the Secondment Agreement.

7.6. Supporting documentation

It is proposed that the supporting documents listed below will be developed to support the policy. Supporting documents are not part of the consultation. These will be drafted following the consultation when responses have been analysed and the policy is developed in a final draft.

- **Employee guide**
Descriptor: guide to help employees use and understand the Secondment Policy. This will include information on the nature and entitlement of a secondment.
- **Manager guide**
Descriptor: guide to help managers use and understand the Secondment Policy. This will include information on the nature and entitlement of a secondment.
- **Secondment policy flowchart**
Descriptor: visual and text alternative flowcharts outlining the key steps in the Secondment Policy.
- **Secondment agreement**
Descriptor: template for written agreement for secondment to be agreed and signed by both parties.

7.7. Consultation questions

We are inviting responses to this consultation using the Scottish Government's consultation hub. The following questions are set.

In your response, all questions have the option to answer yes or no. You are invited to provide further comment in a free text box. If you wish to make specific reference to a section of the policy, please quote the relevant numbered line in this consultation document.

1. Do you feel there are any gaps in the policy?
2. Do you feel there are any gaps in the proposed list of supporting documents?
3. Do you have any other comments to make on the policy?
4. Do you have any views on the potential impacts of this policy on equalities groups?

It is against the law to discriminate against someone because of: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex or sexual orientation. These are protected characteristics under the Equality Act, 2010.

8. Redeployment Policy

8.1. Aim

- 8.1.1. To ensure a fair, consistent, and supportive approach to identifying suitable alternative employment for displaced employees or those unable to continue in their existing roles.

8.2. Scope

- 8.2.1. This policy applies to all displaced employees or those employees who are unable to continue in their current role. It does not apply to bank, agency, and sessional workers.
- 8.2.2. This policy complies with current legislation and meets the aims of the [Public Sector Equality Duty](#) of the [Equality Act 2010](#).

8.3. Definitions

- 8.3.1. **Access period** is the length of time an eligible employee can access the provisions of the Redeployment Policy.
- 8.3.2. **Displaced** is the term applied to employees whose post is no longer needed, or the skills or experience required for the role have changed or are no longer required.
- 8.3.3. **Matching** involves comparison of a vacant post's essential criteria with the knowledge, skills, and experience of one or more employees.
- 8.3.4. **Redeployment** is the process of securing suitable alternative employment for an employee who is displaced or unable to continue in their current role.
- 8.3.5. **Special class status** is a category within the NHS pension scheme for some members pre-April 1995. Dependent on the nature of the work they are entitled to earlier than normal pension age and, in some cases, other enhanced terms. Mental Health Officer status has similar entitlements.
- 8.3.6. **Suitable alternative employment** describes the factors used to determine if a post is appropriate in a redeployment situation. The factors include the following:
- job role
 - pay and benefits
 - job location and hours of work
 - Special class or Mental Health Officer pension status
 - employee's skills and experience
 - employee's circumstances

8.4. Roles and responsibilities

8.4.1. There is a range of standard expectations which underpin all policies. [Read more about standard roles and responsibilities](#). In addition, the following specific responsibilities apply to this policy.

8.4.2. Manager

8.4.3. The employee's manager will:

- Provide regular contact and support to the employee whilst suitable alternative employment is being sought or identified.
- Engage with the employee to offer appropriate training and development opportunities for potential suitable alternative vacancies.
- Make sure employees have access to this policy's provisions from when they are displaced.
- Seek advice from HR or designated redeployment contact, where necessary and appropriate, when dealing with redeployment issues.

8.4.4. Hiring manager

8.4.5. Managers recruiting to a vacancy will:

- Consider employees for vacancies objectively and without prejudice.
- Take a flexible approach to make sure employees matched to the vacancy are not unreasonably refused appointment to the role.
- Actively consider reasonable adjustments to enable the employee to access continued employment.
- Raise any concerns or issues about a redeployed employee as soon as possible or during any trial period to enable early discussion and resolution.
- Seek advice from HR or designated redeployment contact, where necessary and appropriate, when dealing with redeployment issues.

8.4.6. Employee

8.4.7. The employee will:

- Actively engage with the redeployment process.
- Take a flexible approach, particularly when considering suitable alternative roles.
- Engage with training and development programmes integral to any role that they subsequently accept.
- Raise any concerns or issues as soon as possible or during any trial period to enable early discussion and resolution.
- Highlight any change of circumstances to their manager.

8.4.8. Redeployment contact

8.4.9. The redeployment contact will:

- Make sure employees matched to vacancies are appropriately prioritised based on the reason for their redeployment.
- Liaise with managers recruiting to a vacancy to match employees to the role appropriately.
- Make sure that refusal by a manager to appoint an employee to a potential match is reasonable and stands up to objective scrutiny.

8.4.10. Occupational health

8.4.11. Occupational health will:

- Provide specialist advice about whether the employee should be considered for redeployment for health reasons.
- Provide specialist advice to inform a decision on fitness and suitability for alternative positions.

8.5. Procedure

8.5.1. NHSScotland is committed to retaining employees. Redeployment supports employees who are unable to continue in their current role. It also offers the opportunity to retain valued skills and experience within the organisation. Before advertising any vacant post there will be full consideration as to whether the employer can fill it through redeployment. Managers recruiting to a vacancy should appoint an employee from those considered to meet the essential criteria of the post.

8.5.2. Reasons for redeployment

8.5.3. Redeployment may be a result of:

- Organisational change, for example, removal of posts or shift changes.
- Capability, for example, health or performance issues.
- End of fixed-term contract, whether in a redundancy situation or not.

8.5.4. Other circumstances resulting in redeployment will be by exception. These will be determined on a case-by-case basis, to make sure the principles of fairness and consistency of approach are applied.

8.5.5. Individuals on redeployment for organisational change reasons should refer to the local Organisational Change Policy to clarify the provisions that apply. This will include alternative posts for employees on protection.

8.5.6. Redeployment may not be appropriate for health cases where the medical advice indicates the employee is unfit for their own post or any other type of work within the Board.

8.5.7. Redeployment may not be appropriate for individuals being sponsored for a work visa due to the restrictions of the visa conditions.

8.5.8. Accessing redeployment

8.5.9. Once an employee has access to redeployment, their manager will meet with them to:

- discuss the provisions of the Redeployment Policy
- confirm the employee's responsibilities
- complete the Redeployment referral form [insert hyperlink to the Redeployment referral form]

8.5.10. The form will be passed to the redeployment contact, who will meet with the employee to:

- discuss their existing knowledge and skills
- explore training and development opportunities to support potential employment

8.5.11. Access period

8.5.12. The employee's manager will maintain regular contact with them throughout the access period.

8.5.13. The employer should limit the employee's access to redeployment to 3 months in the first instance. After 3 months, it should be reviewed to consider whether an extension is appropriate.

8.5.14. The access period may be extended where:

- Suitable alternative employment opportunities have arisen or will arise within a reasonable time.
- An extension to the access period may amount to a reasonable adjustment for a disabled employee.

8.5.15. The access period for employees displaced due to non-renewal of a fixed-term contract can be for up to three months but certainly no less than their contractual notice period. In the case of organisational change, access to redeployment is available until a suitable alternative post is identified.

8.5.16. If the person is not able to do their current post while on redeployment a meaningful role will be found. The employee will retain their employment status until a suitable alternative employment opportunity becomes available.

8.5.17. Matching

8.5.18. The redeployment contact will use the completed Redeployment referral form for matching.

8.5.19. As redeployment aims to preserve employment, the redeployment contact will normally only consider employees for posts at their current or a lower pay band. However, if the employee is disabled, consideration may be given to vacant posts at a higher pay band or grade in exceptional circumstances.

8.5.20. Where several employees are suitable for an available post, the redeployment contact will consider the circumstances of redeployment. They will establish whether any employee takes priority over others due to displacement reasons or any characteristics protected under the Equality Act 2010.

8.5.21. The redeployment contact will:

- Match employees with the highest priority to an available post.
- Advise employees of the match and pass their details to the manager recruiting to the vacancy.
- Alert the employee's manager.

8.5.22. If no appointment is made, the same process will apply to those with the next priority level. The process will continue until an employee is appointed or the process is exhausted.

8.5.23. The order of prioritisation from highest to lowest will normally be as follows:

- Pregnant employees and employees on maternity, adoption or shared maternity and shared adoption leave subject to organisational change. This includes any protected period following on from maternity, adoption or shared maternity and shared adoption leave.
- Disabled employees in line with the Equality Act 2010.
- Employees displaced on grounds of organisational change, including expiry of fixed-term contracts resulting in a redundancy.
- Employees being redeployed under the [Attendance Policy](#).
- Employees being redeployed under the [Capability Policy](#).
- Fixed-term employees in line with the Fixed-Term Contract Policy.
- Employees returning from a career break. See [Career Break Policy](#).

8.5.24. Entitlement to protection would only apply to employees displaced on grounds of organisational change, including expiry of fixed-term contracts resulting in a redundancy.

8.5.25. Employees can be redeployed for other reasons in exceptional circumstances where all other reasonable options have been exhausted.

8.5.26. The employee or the hiring manager may consider that the matched post is unsuitable. The employee should discuss this with the redeployment contact and their manager. The hiring manager should discuss this with the redeployment contact.

8.5.27. Selection decisions

8.5.28. The hiring manager will assess individuals against an agreed person specification and job description. Subject to agreement with HR, the hiring manager may need to use a more formalised selection process in the following circumstances:

- Where a post is not an exact match and the individual's suitability for the role should be explored.
- Where more than one employee with the same level of priority is matched to a vacancy.

8.5.29. Any subsequent employment offer will be conditional upon all relevant pre-employment checks in the Employment Checks Policy [[insert hyperlink to Employment Checks Policy](#)].

8.5.30. Unsuccessful candidates will be provided with verbal feedback. Written confirmation can be provided on request.

8.5.31. Trial Periods or retraining

8.5.32. A trial period of 4 weeks will apply to employees appointed to posts via redeployment. The employer may extend trial periods by agreement. An extension may be necessary where the employee requires additional training and development or in response to specific circumstances. For example, as a reasonable adjustment if the employee is disabled.

8.5.33. Where the pay band of the new post is lower, employees will retain the pay band of their previous post during the 4-week trial period. Upon satisfactory trial completion, they will move to the pay band for the new post. If the trial is extended the employee will be paid at the rate of the new post.

8.5.34. Where a disabled employee is appointed to a higher band the employee will be paid at the higher rate during the 4 week trial period. If the trial is extended the employee will be paid at the rate of the new post. If the employee does not satisfactorily complete the trial period they will return to their substantive pay band.

8.5.35. Redeployment into a fixed-term post

8.5.36. When the organisation matches a permanent employee to a temporary or fixed-term post, they will retain their permanent employment status during this period. Consideration of further redeployment will be linked to the original reason for redeployment.

8.5.37. Determining the suitability of a post

8.5.38. Where an employee has declined several suitable alternative employment opportunities, the redeployment contact will meet with the employee and their manager to explore the reasons fully.

8.5.39. Where the hiring manager considers that the employee is unsuitable, they must provide reasons. These will address why they consider that the employee does not meet the essential criteria and is unlikely to be able to do so following a short period of training and development.

8.5.40. During the trial period, the hiring manager or the employee may determine that the post is unsuitable. In either case, they must clearly demonstrate the unsuitability of the post. Responsibility for pursuing further redeployment, if appropriate, will pass back to the employee's manager.

8.5.41. Redeployment should be reviewed after the 3 months access period to consider whether an extension is appropriate, or it has been clearly demonstrated that a suitable role will not be found.

8.5.42. Where the employee has failed to engage with the process or where there is no potential for suitable alternative employment, consideration should be given to termination of employment in line with the relevant NHSScotland Workforce Policy.

8.5.43. Resolution of disagreements

8.5.44. Should a disagreement arise, the employee has the right to raise matters under the [Grievance Policy](#). It may be appropriate for either party to seek advice on resolving the matter from HR colleagues or a trade union representative. They should seek early resolution wherever possible.

8.5.45. Related policies

8.5.46. The following policies are related to the Redeployment Policy:

- [Attendance](#)
- [Capability](#)

8.6. Supporting documentation

It is proposed that the supporting documents listed below will be developed to support the policy. Supporting documents are not part of the consultation. These will be drafted following the consultation when responses have been analysed and the policy is developed in a final draft.

- **Employee guide**

Descriptor: guide to help employees use and understand the Redeployment Policy. This will include information on the nature and entitlement of a redeployment.

- **Manager guide**

Descriptor: guide to help managers use and understand the Redeployment Policy. This will include information on the nature and entitlement of a redeployment.

- **Redeployment policy flowchart**

Descriptor: visual and text alternative flowcharts outlining the key steps in the Redeployment Policy.

- **Redeployment referral form**

Descriptor: form to support redeployment by describing skills, experience and preferences.

8.7. Consultation questions

We are inviting responses to this consultation using the Scottish Government's consultation hub. The following questions are set.

In your response, all questions have the option to answer yes or no. You are invited to provide further comment in a free text box. If you wish to make specific reference to a section of the policy, please quote the relevant numbered line in this consultation document.

1. Do you feel there are any gaps in the policy?
2. Do you feel there are any gaps in the proposed list of supporting documents?
3. Do you have any other comments to make on the policy?
4. Do you have any views on the potential impacts of this policy on equalities groups?

It is against the law to discriminate against someone because of: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex or sexual orientation. These are protected characteristics under the Equality Act, 2010.



© Crown copyright 2024

OGL

This publication is licensed under the terms of the Open Government Licence v3.0 except where otherwise stated. To view this licence, visit nationalarchives.gov.uk/doc/open-government-licence/version/3 or write to the Information Policy Team, The National Archives, Kew, London TW9 4DU, or email: psi@nationalarchives.gsi.gov.uk.

Where we have identified any third party copyright information you will need to obtain permission from the copyright holders concerned.

This publication is available at www.gov.scot

Any enquiries regarding this publication should be sent to us at
The Scottish Government
St Andrew's House
Edinburgh
EH1 3DG

ISBN: 978-1-83521-916-4 (web only)

Published by The Scottish Government, February 2024

Produced for The Scottish Government by APS Group Scotland, 21 Tennant Street, Edinburgh EH6 5NA
PPDAS1407954 (02/24)

w w w . g o v . s c o t